

Specifically, Examiner has asserted that the product can be used in a process for producing an optical frequency converter.

Examiner has incorrectly categorized the claims of the present case as including "product" and "process of using". There are no "process of using" claims extant in the case. Independent claims 1 and 13 both set out a "nonlinear crystal". Method claim 8 does not set out a method for "using" a nonlinear crystal. Rather method claim 8 is better characterized as a "process of making" a nonlinear crystal.

Specifically, claim 8 sets out a method for increasing spectral acceptance within a nonlinear crystal. In step (a), the nonlinear crystal is arranged as a plurality of domains. In step (b), the poling periods of the domains across the nonlinear crystal are varied. As is clear, the method steps pertain to the making of the nonlinear crystal and not to using the nonlinear crystal.

MPEP 806.05(f) sets out a standard for determining whether a process of making and a product made by the process can be shown to be distinct inventions. Specifically, either or both of the following need to be shown: (A) that the process as claimed is not an obvious process of making the product and the process as claimed can be used to make other and different products; or (B) that the product as claimed can be made by another and materially different process. Examiner has not shown either of the above.


Applicant notes that in the present case, the process claimed will result in making the product, and the product cannot be made by another and materially

different process. The restriction requirement, therefore, was wrongly asserted, and Applicant requests that the restriction requirement be withdrawn.

In compliance with 37 CFR 1.143, Applicant provisionally elects Invention 1 (claims 1 through 7 and 13 through 18) for prosecution.

Applicant believes the present Application is in condition for allowance and favorable action is respectfully requested.

Respectfully submitted,
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